

**CONSERVATION COMMISSION
& INLAND WETLAND AGENCY
February 26, 2013 - Minutes**

I. CALL TO ORDER

Ms. Cherichetti took the roll call at 6:04 PM.

II. ROLL CALL

PRESENT: Matthew Caputo, Chair; Lou Bonsangue, Ed Holowinko, D. Seeley Hubbard, Robert Mercurio, Bill Nightingale, Karen Destefanis (6:06PM)

III. RECEIPT & DISCUSSION

There are no new receipts.

IV. DISCUSSION &/OR DECISION

- a) **#S12-423 – 3 Admiral Court – Castaneda** – Corrective Action removal of deposited landscaping debris/fill and associated restoration activities within a wetland and adjacent to a watercourse, as per Order #V12-891.

Ms. Cherichetti said the receipt date of the application was December 11, 2012.

***** MS. DESTEFANIS ARRIVED AT 6:06 PM.**

Ms. Cherichetti explained their original deadline to act had passed, but the applicant had requested a 60 day extension of time in order to complete the application.

Ms. Cherichetti stated the deadline for the Commission to render a decision or open a public hearing would be the April 9, 2013 meeting; so a decision must be made regarding a public hearing at the next meeting on March 12th.

Ms. Cherichetti stated that she will contact the applicant to advise him of the deadlines.

Mr. Caputo asked when the public hearing date would have to be set and Ms. Cherichetti said the next meeting of March 12, 2013.

- b) **#S12-424 – 7 Bumpy Lane – Allen** – Demolition of existing and construction of new residence in and adjacent to a wetland.

Ms. Cherichetti said the application receipt date was January 8, 2013 and the deadline date to start a public hearing is March 12, 2013.

Ms. Cherichetti stated she recommends scheduling the public hearing for March 12, 2013. She said the applicant is prepared to proceed with the public hearing. She mentioned the Commission has already determined the application will be a significant regulated activity.

***** MS. DESTEFANIS MADE A MOTION TO SCHEDULE A PUBLIC HEARING FOR APPLICATION #S12-424 – 7 BUMPY LANE – ALLEN ON MARCH 12, 2013.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

***** MOTION CARRIED UNANIMOUSLY.**

- c) **#S13-426 – 56 Freshwater Lane – Webb** – Construction of additions/renovations to existing residence and construction of a new in-ground pool adjacent to a wetland and watercourse

Ms. Cherichetti said the Agency had discussed the application at the last two meetings and requested the applicant to submit a Planting Mitigation Plan. The revised plans were submitted and Ms. Cherichetti went over the revisions. There is a memorandum dated February 21, 2013 which includes a draft resolution for approval with conditions.

Mr. Nightingale asked about the notation regarding the proposed driveway and would like to know where the road is located. Ms. Cherichetti said the existing driveway comes in from Freshwater Lane and highlighted it in brown. She said the proposed driveway would extend to the far side of the addition. She also highlighted the area of driveway to be removed.

Mr. Webb was present and described the driveway and the portion to be removed.

*** **MS. DESTEFANIS MADE A MOTION TO APPROVE APPLICATION #S13-426 – 56 FRESHWATER LANE – WEBB WITH CONDITIONS.**
*** **MR. NIGHTINGALE SECONDED THE MOTION.**
*** **MOTION PASSED UNANIMOUSLY.**

V. ENFORCEMENT ACTIONS

- a) **Show-Cause Hearing - #V13-892 – Kostowski – 39 Gillies Lane** – Filling and deposition of woodchips in and adjacent to a wetland and watercourse

Ms. Cherichetti explained to the Commission this was a Show-Cause hearing regarding an Order that the Conservation Office issued on January 31, 2013.

Ms. Cherichetti explained the Order cited the deposition of woodchips and removal of vegetation within the wetland and watercourse. She noted the woodchips were recently deposited along the western property line.

Ms. Cherichetti described the location of the property. She mentioned the pond is co-owned by several property owners. She distributed aerial photographs that were taken on March 29, 2012 from Google maps. She described the orange area as being woodchips on the property in 2012.

Ms. Cherichetti noted at the last meeting the Show-Cause was opened and the respondent submitted a narrative and a colored copy of a survey that shows the recently deposited woodchips adjacent to the driveway.

Ms. Cherichetti stated at the last meeting the respondent discussed a previous permit from more than a decade ago and she does not think the currently cited activities of depositing woodchips is related to the expired 1997 permit.

Ms. Cherichetti stated she had located the earlier permit files regarding the property to try and determine whether there was a directive within the older permits to deposit woodchips in the area. Mr. Nightingale asked when Ms. Cherichetti thought the woodchips were deposited and she replied recently. She explained at the last meeting the respondent said they were deposited in September, 2012.

Ms. Cherichetti said the office received two complaints of woodchips being deposited in the wetland and watercourse.

Ms. Cherichetti said there was a Cease and Desist Order previously issued for the lack of sediment and erosion controls, building a stonewall at the lake's edge, clear cutting a ten foot wide area west of the driveway, which is the area that they are discussing, and putting woodchips between the driveway and the stream. She stated the Order was issued October 24, 1997. Ms. Cherichetti stated she has not yet determined whether the directives of that Order or the conditions of the original permit have been met.

Mr. Caputo asked if it was the current owner that received the 1997 Order and Ms. Cherichetti replied yes.

Ms. Cherichetti discussed the negative effects woodchips have when deposited in wetlands or watercourses.

Ms. Cherichetti explained the procedure for issuing a Notice of Violation Warning.

Ms. Sue Kostowski, property owner, stated the woodchips nearest the watercourse were not a foot in depth. She stated the foot of woodchips is near the driveway where the property drops down.

Ms. Kostowski said six years ago the condominiums had made a complaint and the Environmental Officer at the time visited the property. She said the officer said the woodchips were a good idea and the woodchips will dissolve and it will become soil and they can plant more bushes. She stated they did not know the permit had an expiration date.

Ms. Kostowski stated there was no vegetation on the rock area of the property. She explained when they plow their driveway the gravel and woodchips get pushed to the side and go down the property and that's why there is a foot in depth of woodchips. She stated it is not near the water. She mentioned all the wildlife on the property and they thought they were doing a good thing. She said they did not buy the woodchips, but that Ledgebrook Condominiums had offered them.

Ms. Kostowski said they really didn't realize they were doing something they were not supposed to. She said it was environmental paradise for the animals.

Mr. Caputo asked if they had received any woodchips within the past twelve months and Mrs. Kostowski replied they did in September.

Mr. Nightingale asked Mrs. Kostowski to describe the photographs.

Mr. Caputo stated the Commission is concerned with the woodchips within the wetlands and possibly the watercourse.

Ms. Cherichetti asked Mrs. Kostowski to point out where the berry bushes she referred to are in the photographs.

Mr. Hubbard stated he has concern with putting woodchips on rocks and crevices on a steep slope. He said during a rain event the chips will go down into the wetland and watercourse.

There was a discussion regarding the property and location of the wetlands and watercourse.

Mrs. Kostowski asked the Commission what they need to do and Mr. Caputo replied that if the Agency upholds the Order, they must follow the directives which include removing the woodchips once a permit is approved. .

Ms. Destefanis said it is not healthy for the wetlands to have woodchips in it.

Ms. Cherichetti discussed the Order dated January 31, 2013. She read the directives of the letter.

***** SWITCH RECORDING DEVICE AT 7:17 PM.**

Mr. Caputo asked how the Commission should proceed and Ms. Cherichetti said they would first make a motion to close the show-cause hearing then uphold, modify or withdraw the Order.

Mr. Hubbard asked Ms. Cherichetti if the permit application would include removing all of the woodchips from the property or just from adjacent to the wetland and watercourse. Ms. Cherichetti noted she is not concerned about any woodchips outside of the upland review area.

Ms. Cherichetti clarified the Order it states to remove all recently deposited woodchips without benefit of a permit between the watercourse and the driveway and restoring impacted review area.

Ms. Kostowski confirmed that the Commission is concerned with the woodchips next to the watercourse. She asked if they could plant clover along the edge so no woodchips would spill into the water.

Mr. Caputo responded that should the Agency uphold the Cease and Desist Order tonight, this action will allow the respondent to submit a Corrective Action Permit to propose the work and then the Commission will discuss if it is appropriate.

Mr. Caputo clarified tonight's meeting is to just discuss the Cease and Desist and whether it should be upheld, modified or withdrawn.

Ms. Cherichetti added tonight's meeting is to determine whether or not there is a violation.

Mr. Caputo read the directives of the Cease and Desist Order aloud.

***** MS. DESTEFANIS MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING FOR #V13-892 – 39 GILLIES LANE - KOSTOWSKI.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

***** MOTION CARRIED UNANIMOUSLY.**

There was a brief discussion with regard to modifying the Order.

***** MR. BONSANGUE MADE A MOTION TO MODIFY AND UPHOLD VIOLATION #V13-892 – 39 GILLIES LANE – KOSTOWSKI WITH EXTENSION TO MARCH 26, 2013 TO FILE FOR A PERMIT.**

***** MS. DESTEFANIS SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

b) **Show-Cause Hearing - #V13-893 – Rogers – 200 Fallow Street – Filling and deposition of woodchips and stone within a wetland and watercourse**

Ms. Cherichetti stated on January 18, 2013 a complaint came into the office from the Water Pollution Control Authority noting filling with woodchips and other debris within a wetland and watercourse.

Ms. Cherichetti said the Office issued a Violation Warning dated January 22, 2013 to the property owner requesting and inspection. She added that Ms. Bletsas spoke with the property owner on January 31, 2013 and he confirmed the work was done and the Conservation Office had permission to inspect the property.

Ms. Cherichetti noted on February 5, 2013 a field inspection was conducted by her and Ms. Bletsas. She said after in the inspection, a Cease and Restore Order was issued.

Ms. Cherichetti provided a location map and pointed out where the property was located. She distributed photographs of the site.

Ms. Cherichetti said the wetland was field delineated and flagged in about 1983. She pointed out where the wetland areas are and where the woodchips were deposited.

Ms. Cherichetti said there is approximately one foot of woodchips deposited over a twenty four hundred square foot area.

Mr. Peter Rogers, property owner, was present. He showed photographs of the property and discussed the tree damage after the storms in which trees were uprooted. He explained that he had hired M. Lato to remove the debris and trees.

Mr. Rogers agreed the most of the yard is wetlands. He noted that Mr. Lato removed the trees and all the debris, they had a 14 wheeled truck and made several trips. He noted they left the woodchips.

Mr. Caputo asked if he talked to the contractor and Mr. Rogers replied no.

Mr. Caputo stated the contractor should know what they are responsible for knowing what is required for any work within a wetland.

Mr. Rogers said there are several more trees on the property that are at a 30 degree angle that will eventually need to be removed. Ms. Cherichetti recommended that he note their location on the Corrective Action Permit application.

*** **MR. HUBBARD MADE A MOTION TO CLOSE SHOW-CAUSE HEARING FOR #V13-893 – 200 FILLow STREET – ROGERS.**
*** **MR. BONSAUGUE SECONDED THE MOTION.**
*** **MOTION CARRIED UNANIMOUSLY.**

Mr. Nightingale took a moment to silently read the Violation Warning and Order letters.

There was a brief discussion regarding the woodchips.

*** **MR. HUBBARD MADE A MOTION TO UPHOLD VIOLATION #V13-893 – 200 FILLow STREET – ROGERS WITH EXTENSION TO MARCH 26, 2013.**
*** **MS. DESTEFANIS SECONDED THE MOTION.**
*** **MOTION CARRIED UNANIMOUSLY.**

VI. APPROVAL OF MINUTES

a) February 12, 2013

Review was tabled to the next meeting.

VII. COMMENTS OF STAFF

a) Report of the Senior Environmental Officer

Ms. Cherichetti had nothing she wished to report.

VIII. COMMENTS OF COMMISSIONERS

a) Report of the Commission Chair

Mr. Holowinko suggested there be a discussion regarding the Oak Hills driving range, which he noted he had read about in The Hour newspaper.

Ms. Cherichetti noted that a handful of people had contacted her with the suggestion that the Conservation Commission discuss it. She noted that 'it' is currently just an idea. She noted that Oak Hills is currently just seeking Statements of Qualifications through a bid process.

Ms. Cherichetti added if Oak Hills comes up with an actual plan, it would need to be reviewed by the Conservation Commission and probably also as the Inland Wetland Agency. She noted Oak Hills Authority has ideas about what they want, but they have not approached her or the Conservation Commission about a preliminary review or discussion. She concluded that if a potential applicant is not looking for a preliminary review, she and the Commission cannot force it upon them.

Ms. Destefanis stated that she also wished to discuss wetland violations by contractors that disregard the rules. She said the contractors should be liable for work done irresponsibly and she feels there should be consequences for their actions because it is unfair to the homeowner.

Mr. Caputo made a suggestion that Ms. Cherichetti speak to Corporation Counsel.

There was a brief discussion regarding landscapers and contractors and their responsibilities when working within a wetland and watercourse.

Ms. Cherichetti discussed the potential for a Citation and Fine Ordinance. She noted that such ordinance would need to be approved by the Common Council and would be separate, but parallel, to the enforcement the Agency would continue to do. She said she will speak with Corporation Counsel.

IX. ADJOURNMENT